

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE:) Chapter 7
)
LEGENDARY FIELD EXHIBITIONS, LLC;	) CASE NO. 19-50900-CAG
)
AAF PLAYERS, LLC;	) CASE NO. 19-50902-CAG
)
AAF PROPERTIES, LLC;	) CASE NO. 19-50903-CAG
)
EBERSOL SPORTS MEDIA GROUP, INC;	) CASE NO. 19-50904-CAG
)
LFE 2, LLC;	) CASE NO. 19-50905-CAG
)
WE ARE REALTIME, LLC;	) CASE NO. 19-50906-CAG
)
DEBTORS.	) (SUBSTANTIVE CONSOLIDATION OF
	) ALL 6 CASES INTO ONE CASE,
	) LEGENDARY FIELD EXHIBITIONS,
	) LLC, CASE NO. 19-50900-CAG)
	) JOINTLY ADMINISTERED UNDER
	) CASE NO. 19-50900-CAG

**MOTION OF THE CHAPTER 7 TRUSTEE FOR APPROVAL OF THE SETTLEMENT
AGREEMENT WITH MGM RESORTS INTERNATIONAL OPERATIONS, INC. AND
REQUEST FOR RELIEF (WITH 21-DAY LANGUAGE)**

THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS.

IF NO TIMELY RESPONSE IS FILED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD.

A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.

Randolph N. Osherow, in his capacity as the Chapter 7 Trustee (the “**Trustee**”) of Ebersol Sports Media Group, Inc., AAF Players, LLC, AAF Properties, LLC, Legendary Field Exhibitions, LLC, LFE 2, LLC, and We Are Realtime, LLC, (collectively, the “**Debtors**”), hereby respectfully submits his Motion (the “**Motion**”) for Approval of the Settlement Agreement (the “**Settlement Agreement**”), attached as Exhibit “B” with MGM Resorts International

1 Operations, Inc. (“**MGM**”), pursuant to 11 U.S.C. § 105 and Federal Rule of Bankruptcy
2 Procedure 9019. The Motion requests entry of an order in the form attached hereto as **Exhibit A**
3 approving the Settlement Agreement. Subject to Bankruptcy Court approval, the Settlement
4 Agreement authorizes the Debtors and MGM (collectively, the “**Parties**”) to take any and all
5 actions necessary to effectuate the terms of the Settlement Agreement.
6

7 1. This Motion is made and based on the Memorandum of Points and Authorities
8 provided herein, the pleadings, papers, and other records on file with the Clerk of the Bankruptcy
9 Court, judicial notice of which is hereby requested, and any argument of counsel entertained by
10 the Bankruptcy Court at the time of the hearing of the Motion.

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **I.** 13 **INTRODUCTION**

14 2. Prior to the filing of these bankruptcy cases, and through various agreements,
15 MGM invested \$7,000,000 to help finance the Debtors’ operations and develop their intellectual
16 property. Shortly after the filing of these bankruptcy cases, MGM engaged the Trustee to acquire
17 the Debtors’ intellectual property, and the Parties negotiated the terms and provisions of the
18 Settlement Agreement. The Settlement Agreement is straight forward, and primarily includes: (a)
19 the sale of the Debtors’ intellectual property to MGM for \$125,000; (b) MGM’s reduction of its
20 \$7,000,000 claim to \$5,000,000; and (c) general releases between the Parties. Accordingly, the
21 Trustee seeks Bankruptcy Court approval of the Settlement Agreement, including the mutual
22 compromises and agreements therein.
23

24 **II.** 25 **JURISDICTION, VENUE, AND BASIS FOR RELIEF**

26 3. The Bankruptcy Court has jurisdiction over this matter pursuant to 28 U.S.C. §§
27 157 and 1334. Consideration of the Motion is a core proceeding pursuant to 28 U.S.C. §
28

1 157(b)(2)(A), (B), (M), (N), and (O). Venue in this District is proper pursuant to 28 U.S.C. §§
2 1408 and 1409.

3 4. The statutory basis for the relief sought herein arises from 11 U.S.C. § 105 and
4 Bankruptcy Rule 9019.
5

6 **III.**
7 **PERTINENT FACTS**

8 **A. MGM's Intellectual Property Claim.**

9 5. On April 16, 2019 (the "**Petition Date**"), each of the Debtors filed a voluntary
10 petition under Chapter 7 of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (as
11 amended, the "**Bankruptcy Code**"), before the United States Bankruptcy Court for the Western
12 District of Texas (the "**Bankruptcy Court**"), commencing Case Nos. BK-S-19-50900-CAG; BK-
13 S-19-50902-CAG; BK-S-19-50903-CAG; BK-S-19-50904-CAG; BK-S-19-50905-CAG; and
14 BK-S-19-50906-CAG (collectively, the "**Bankruptcy Cases**").
15

16 6. On April 17, 2019, the Bankruptcy Court appointed Randolph N. Osherow as the
17 Trustee.

18 7. In Schedule D: Part 1 of their joint petition, the Debtors identified MGM as a
19 secured creditor, with a security interest in certain of the Company's intellectual property (the
20 "**Security Interest**") in the amount of \$7,000,000 (the "**Claim**"). MGM acquired its Security
21 Interest by entering into that certain Note and Warrant Purchase Agreement, dated September 10,
22 2018, which was subsequently amended and restated by the Amended and Restated Note and
23 Warranty Purchase Agreement, dated September 28, 2018 (the "**Purchase Agreement**").
24

25 8. As condition to closing the Purchase Agreement, the Parties subsequently entered
26 into that certain Security Agreement, dated September 28, 2018 (the "**Security Agreement**"),
27 whereby the Debtors granted to MGM a security interest in, and a lien on the Debtors' right, title
28

1 and interest in those certain intellectual property rights as defined in the Security Agreement (the
2 “IP”). On October 1, 2018, MGM filed a UCC-1 Financing Statement with the Delaware
3 Department of State, perfecting its security interest in the IP.

4 9. On April 1, 2019, the Parties entered into a certain IP License and Escrow
5 Agreement (the “IP Agreement”), under which the Debtors provided MGM with a perpetual,
6 irrevocable and fully paid-up license for the use of the IP.

7 10. MGM now seeks to obtain ownership of the IP, and the Parties hereto have
8 concluded that it is in their best interests to consensually resolve MGM’s claims in the
9 Bankruptcy Cases and IP, including those asserted or which could have been asserted in the
10 Bankruptcy Cases, or any adversary proceeding or contested matter brought or that could have
11 been brought therein, on the terms and conditions set forth herein, subject only to entry order of
12 the Bankruptcy Court approving the Settlement Agreement.

13 11. Starting shortly after the Petition Date, the Debtors and MGM began working
14 diligently and cooperatively with each other to effectuate the steps necessary to resolve MGM’s
15 Claim, in part, and its rights under the Security Agreement and the IP Agreement. As a result of
16 these combined efforts, the Trustee and MGM prepared the Settlement Agreement, which the
17 Parties agreed is a mutually acceptable resolution of their respective rights. The Settlement
18 Agreement represents the culmination of good faith, arm’s length negotiations among the Parties
19 and includes mutually agreed upon compromises and/or adjustments in order to arrive at a result
20 which is satisfactory and acceptable to the Parties.

21 **B. Material Terms of the Settlement Agreement**

22 12. As set forth in Section 2 of the Settlement Agreement, upon Bankruptcy Court
23 approval, MGM shall pay to the Trustee \$125,000.00 for ownership of all of the Debtors’ right,
24 title and interest in and to the IP, and any and all other intellectual property rights related thereto.

13. Section 3 of the Settlement Agreement provides that, as additional consideration for the transfer of IP to MGM, MGM will reduce its Claim by \$2,000,000.

14. Section 4 of the Settlement Agreement provides for the mutual general releases among the parties.

15. Finally, upon Court approval, the Trustee requests the order approving this Motion be effective immediately upon its entry and a waiver of the 14-day stay of Bankruptcy Rule 6004(h). Fed. R. Bankr. P. 6004(h).

IV. LEGAL ARGUMENT

16. Compromise and settlement agreements have long been an inherent component of the bankruptcy process. See Protective Comm. for Index Stockholders of TMT Trailer Ferry v. Anderson, 390 U.S. 414, 424 (1958) (citing Case v. Los Angeles Lumber Prods. Co., 308 U.S. 106, 130 (1939)). The approval of compromises or settlements in bankruptcy proceedings is generally governed by Bankruptcy Rule 9019(a), which provides the following:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

Fed. R. Bankr. P. 9019(a).

17. Compromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the parties' compromise rests in his or her sound discretion. In re Stein, 236 B.R. 34, 37 (Bankr. D. Or. 1999). The law prefers compromise "as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise." Martin v. Kane (In re A & C Properties), 784 F.2d 1377, 1381 (9th Cir. 1986). Public policy supports pretrial compromises because litigation "can occupy a court's docket for

1 years on end, depleting resources of the parties and the taxpayers while rendering meaningful
2 relief elusive.” In re Grau, 267 B.R. 896, 899 (Bankr. S.D. Fla. 2001) (quoting Matter of
3 Munford, Inc., 97 F.3d 449, 455 (11th Cir. 1996)).

4 18. The United States Supreme Court has found that a bankruptcy settlement must be
5 fair and equitable. See Protective Comm. For Indep. Stockholders of TMT Trailer Ferry, Inc. v.
6 Anderson, 390 U.S. 414 (1968). Courts routinely state that “in order to determine whether a
7 proposed settlement is fair and equitable, the bankruptcy court must consider four factors: (a) the
8 probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter
9 of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and
10 delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to
11 their reasonable views in the premises.” In re Stein, 236 B.R. at 37; see also In re A & C
12 Properties, 784 F.2d at 1381; Schmitt v. Ulrich, 215 B.R. 417, 421 (B.A.P. 9th Cir. 1997). A
13 debtor is not necessarily required to satisfy each of these factors as long as the factors as a whole
14 favor approving the settlement. In re Pac. Gas and Elec. Co., 304 B.R. 395, 416 (Bankr. N.D.
15 Cal. 2004); In re WCI Cable, Inc., 282 B.R. 457, 473-74 (Bankr. D. Or. 2002). Further, the
16 settlement does not have to be the best the debtor could have possibly obtained; rather, the
17 settlement must only fall “within the reasonable range of litigation possibilities.” See In re
18 Adelphia Comm. Corp., 327 B.R. 143, 159 (Bankr. S.D.N.Y. 2005) (citing In re Penn Cent.
19 Transp. Co., 596 F.2d 1102, 1114 (3d Cir. 1979) (“Indeed, a court may approve a settlement even
20 if it believes that the Trustee ultimately would be successful.”)).

21 19. There is a range of reasonableness with respect to a settlement—a range which
22 recognizes the uncertainties of law and fact in any particular case and the concomitant risks and
23 costs necessarily inherent in taking any litigation to completion—and the bankruptcy court will
24 not be reversed if the appellate court concludes that the settlement lies within that range. See id.

1 (citing Newman v. Stein, 464 F.2d 689, 693 (2d Cir. 1972)). The bankruptcy court “need not
2 conduct an independent investigation into the reasonableness of the settlement but must only
3 ‘canvass the issues and see whether the settlement falls below the lowest point in the range of
4 reasonableness.’” See id. (citing In re W.T. Grant Co., 699 F.2d 599, 608 (2d Cir. 1983)); see also
5 Ars Brook, LLC v. Jalbert (In re Servisense.com, Inc.), 382 F.3d 68, 71-72 (1st Cir. 2004); In re
6 Energy Cooperative, Inc., 886 F.2d 921, 929 (7th Cir. 1989); New Concept Housing, Inc. v.
7 Poindexter et al. (In re New Concept Housing, Inc.), 951 F.2d 932, 938 (8th Cir. 1991).

9 20. For the reasons set forth below, the factors set forth by the U.S. Supreme Court in
10 Protective Comm., support a finding that the Settlement Agreement is fair and reasonable and in
11 the best interests of the estates. Accordingly, this Bankruptcy Court should grant this Motion and
12 approve the Settlement Agreement.

13
14 **A. The Probability of Success in Litigation.**

15 21. The Settlement Agreement effectuates and approves the negotiations and various
16 compromises and adjustments the Parties reached regarding the Claim, the Security Agreement
17 and the IP Agreement. Specifically, the Settlement Agreement helps to quickly facilitate and
18 resolve: (i) the possibility that MGM is successful in the litigation of its contractual rights on the
19 merits, thereby stripping the Debtors’ estates of their valuable IP; (ii) the difficulty of defending
20 that litigation with MGM; and (iii) the expense and complexity attendant to the litigation.
21 Moreover, if the IP is not developed, its value will likely dissipate, reducing the asset value of the
22 Debtors’ estates unnecessarily.

23
24 22. Said otherwise, while MGM is confident that it would ultimately prevail in
25 litigating its contractual rights and the Claim, it acknowledges the Debtors have defenses, and that
26 all litigation entails some risk and uncertainty. Litigating MGM’s contractual rights in particular
27 would be a fact intensive determination for the Court, and the litigation would require detailed
28

1 research and analysis. The litigation would also likely entail significant attorneys' fees, and may
2 require the retention of experts. In light of these risks, the complexity, and the costs, the Parties
3 determined that the Settlement Agreement is in best interests of the estates and all stakeholders.

4 23. Thus, the first factor—probability of success in litigation—weighs in favor of
5 approval of the compromises and settlements contained in the Settlement Agreement.
6

7 **B. Collection Difficulties.**

8 24. The likelihood of payment to the Debtors of the \$125,000 settlement by MGM
9 does not appear risky. Not surprisingly, the returns to creditors in the Bankruptcy Cases appears
10 to be limited, and the Debtors are uncollectible. Given this common scenario in Chapter 7, the
11 second factor is neutral under the terms of the Settlement Agreement.
12

13 **C. The Complexity of the Litigation Involved and Expense, Inconvenience, and Delay Attendant to it.**

14 25. It is not likely the parties will dispute MGM's Claim amount of \$7,000,000. It is
15 likely, however, that all parties will agree litigating MGM's contractual rights will take a material
16 amount of time and expense. Continuing this process for an indefinite period will also reduce
17 estate assets unnecessarily.
18

19 26. Additionally, the Trustee is aware of competing claims to the IP. Determining the
20 legal ownership of intellectual property rights is often a fact, cost, and time intensive process.
21 This process would likely create additional burdens for the estates. Accordingly, the third
22 factor—the complexity of litigation involved and the expense, inconvenience, and delay
23 necessarily attending it—weighs heavily in favor of approving the Settlement Agreement.
24

25 **D. The Paramount Interest of the Creditors.**

26 27. Under the fourth factor, the Bankruptcy Court must consider whether approving a
27 settlement generally "reflects not only the desire of creditors to obtain the maximum possible
28 recovery but also their competing desire that that recovery occur in the least amount of time." In

1 re Marples, 266 B.R. 202, 207 (Bankr. D. Idaho 2001). Approval of the Settlement Agreement is
2 expected to expedite the liquidation of one of the Debtor's assets, avoid disputes, and maximize
3 estate recoveries under the circumstances. As such, the fourth factor also weighs in favor of
4 approval of the Settlement Agreement.

5
6 **VI.**
CONCLUSION

7 28. Based upon the foregoing, the Trustee respectfully requests that the Bankruptcy
8 Court enter an order granting the Motion in its entirety in the form attached hereto as **Exhibit A**,
9 thereby approving the Settlement Agreement, waiving the 14-day stay of Bankruptcy Rule 6004,
10 and authorizing the Parties to take any and all actions necessary to effectuate the terms of the
11 Settlement Agreement. The Trustee also requests such other and further relief as the Bankruptcy
12 Court deems just and proper.

13
14 DATED this 24 day of June, 2019.

15
16 
17 /s/

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19 Texas State Bar No. 15335500
20 342 West Woodlawn, Suite 100
21 San Antonio, Texas 78212
22 (210) 738-3001 – Telephone
23 (210) 737-6312 – Fax
24 rosherow@hotmail.com
25 Chapter 7 Trustee
26
27
28

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IN RE:)	Chapter 7
)	
LEGENDARY FIELD EXHIBITIONS, LLC;	)	CASE NO. 19-50900-CAG
)	
AAF PLAYERS, LLC;	)	CASE NO. 19-50902-CAG
)	
AAF PROPERTIES, LLC;	)	CASE NO. 19-50903-CAG
)	
EBERSOL SPORTS MEDIA GROUP, INC;)	CASE NO. 19-50904-CAG
)	
LFE 2, LLC;)	CASE NO. 19-50905-CAG
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WE ARE REALTIME, LLC;)	CASE NO. 19-50906-CAG
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DEBTORS.)	(SUBSTANTIVE CONSOLIDATION OF
)	ALL 6 CASES INTO ONE CASE,
)	LEGENDARY FIELD EXHIBITIONS,
	)	LLC, CASE NO. 19-50900-CAG)
	)	JOINTLY ADMINISTERED UNDER
	)	CASE NO. 19-50900-CAG

**ORDER APPROVING THE MOTION OF THE CHAPTER 7 TRUSTEE
FOR APPROVAL OF THE SETTLEMENT AGREEMENT
WITH MGM RESORTS INTERNATIONAL OPERATIONS, INC.**

Upon consideration of the Motion (the "Motion") of the Chapter 7 Trustee (the

“Trustee”) of Ebersol Sports Media Group, Inc., AAF Players, LLC, AAF Properties, LLC, Legendary Field Exhibitions, LLC, LFE 2, LLC, and We Are Realtime, LLC, (collectively, the “Debtors”), for Approval of the Settlement Agreement with MGM Resorts International Operations, Inc., and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion being adequate and appropriate under the particular circumstances and that no other further notice is necessary and no objections having been raised; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors’ estates, its creditors, and the other parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon the representations made upon the record during the hearing of the Motion; and it appearing that the relief requested is reasonable and a benefit to the Debtors’ estates, it is hereby:¹

ORDERED that the Motion is hereby APPROVED; and it is further

ORDERED that the Settlement Agreement is approved; and it is further

ORDERED that the mutual general releases contained in the Settlement Agreement are hereby approved in all respects; and it is further

ORDERED that the 14-day stay set forth in Bankruptcy Rule 6004(h) is hereby waived, and this Order shall be effective immediately upon its entry; and it is further

ORDERED that any entity in possession or control of the IP Data is hereby authorized and directed to turn such IP Data over to MGM; and it is further

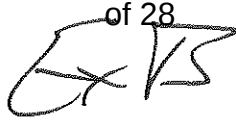
ORDERED that the Court shall retain jurisdiction to hear and determine all matters

¹ Capitalized terms not defined herein shall have those meanings ascribed to them in the Motion.

relating to the entry of this Order.

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rosherow@hotmail.com
Chapter 7 Trustee

of 28


SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made this ____ day of June 2019, by and between Randolph N. Osherow, in his capacity as the Chapter 7 Trustee (the "Trustee") of Ebersol Sports Media Group, Inc., AAF Players, LLC, AAF Properties, LLC, Legendary Field Exhibitions, LLC, LFE 2, LLC, and We Are Realtime, LLC (collectively, the "Debtors"), and MGM Resorts International Operations, Inc. ("MGM"). The Trustee and MGM are each sometimes referred to herein as "Party" and collectively, as "Parties." All references to the Debtors shall include the Trustee in his capacity as the fiduciary of the Debtors' bankruptcy estates, and any successors or assignees of the foregoing. This Agreement is predicated upon the following recitals.

RECITALS

A. On April 16, 2019 (the "Petition Date"), each of the Debtors filed a voluntary petition under Chapter 7 of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (as amended, the "Bankruptcy Code"), before the United States Bankruptcy Court for the Western District of Texas (the "Bankruptcy Court"), commencing Case Nos. BK-S-19-50900-CAG; BK-S-19-50902-CAG; BK-S-19-50903-CAG; BK-S-19-50904-CAG; BK-S-19-50905-CAG; and BK-S-19-50906-CAG (collectively, the "Bankruptcy Cases"). On April 17, 2019, the Bankruptcy Court appointed Randolph N. Osherow as the Trustee.

B. In Schedule D: Part 1 of their joint petition, the Debtors identified MGM as a secured creditor, with a security interest in certain of the Company's intellectual property (the "Security Interest") in the amount of \$7,000,000 (the "Claim"). MGM acquired its Security Interest by entering into that certain Note and Warrant Purchase Agreement, dated September 10, 2018, which was subsequently amended and restated by the Amended and Restated Note and Warranty Purchase Agreement, dated September 28, 2018 (the "Purchase Agreement").

C. As condition to closing the Purchase Agreement, the Parties subsequently entered into that certain Security Agreement, dated September 28, 2018 (the "Security Agreement"), whereby the Debtors granted to MGM a security interest in, and a lien on the Debtors' right, title and interest in those certain intellectual property rights as defined in the Security Agreement (the "IP"). On October 1, 2018, MGM filed a UCC-1 Financing Statement with the Delaware Department of State, perfecting its security interest in the IP.

D. On April 1, 2019, the Parties entered into that certain IP License and Escrow Agreement, under which the Debtors provided MGM with a perpetual, irrevocable and fully paid-up license for the use of the IP.

E. MGM now seeks to obtain ownership of the IP, and the Parties hereto have concluded that it is in their best interests to consensually resolve MGM's claims in the Bankruptcy Cases and IP, including those asserted or which could have been asserted in the Bankruptcy Cases, or any adversary proceeding or contested matter brought or that could have been brought therein, on the terms and conditions set forth herein, subject only to entry order of the Bankruptcy Court approving this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and the covenants, agreements, promises, and representations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Party agrees as follows, subject only to the Bankruptcy Court's entry of an order approving this Agreement.

1. **9019 Motion; Agreement Effective Date; Time.**

(a) The Trustee shall file a motion in the Bankruptcy Cases pursuant to Section 105 of the Bankruptcy Code, and Federal Rules of Bankruptcy Procedure 4001 and 9019 (the "9019 Motion"), for approval of this Agreement and a waiver of the 14-day stay of the order approving the 9019 Motion (the "9019 Order"). All Parties hereby consent to a waiver of the 14-day stay in accordance with Bankruptcy Rule 6004.

(b) This Agreement shall be binding and effective on the date the 9019 Order is docketed in the Bankruptcy Case, or, if the 14-day stay is not waived, the fifteenth (15th) day following entry of the 9019 Order (the "Effective Date"). This Agreement shall have no effect on the Parties' respective rights and interests absent Bankruptcy Court approval.

(c) Time is of the essence with respect to all agreements and obligations of the Parties contained herein.

2. **Settlement Payment and Transfer of the IP.** Upon the Effective Date, MGM shall pay to the Trustee \$125,000.00 for ownership of all of the Debtors' right, title and interest in the IP, and any and all other intellectual property rights related thereto. The 9019 Order shall authorize the transfer of the IP by the Debtors to MGM, including any and all rights afforded to the Trustee or the Debtors to the IP. No further assignment document or event, other than the Effective Date, shall be required to transfer the IP to MGM. The Trustee represents and warrants that the Debtors own and have the right to assign and transfer their rights, title and interests in the IP, and the Debtors have not previously transferred such rights or interests in the IP.

3. **Reduction of Claim Upon Closing.** As additional consideration for the transfer of the IP to MGM, upon the Effective Date, MGM will reduce its Claim by \$2,000,000.

4. **Indemnification and Mutual Releases.**

(a) **Releases by MGM to the Debtors and the Trustee.** Immediately upon the Effective Date, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MGM, for itself and on behalf of its parents, members, successors, predecessors, subsidiaries, affiliated entities, past and present shareholders, officers, directors, agents, representatives, attorneys, employees, subsidiaries, affiliates, related entities, successors and assigns, shall and is deemed to remise, release, and forever discharge the Trustee and the Debtors and their respective parents, members, successors, predecessors, subsidiaries, affiliated entities, past and present shareholders, officers, directors, agents, representatives, attorneys, employees, subsidiaries, affiliates, related entities, successors and assigns of and from all debts, demands, actions, causes of action, suits, accounts, contracts, agreements, and damages in any and all claims, counterclaims, demands, and liabilities whatsoever of every kind, nature, and

description whatsoever, both in law and equity, known or unknown, whether based in tort, contract, or any other theory of recovery (including, but without limitation, claims for incidental, consequential, compensatory, and punitive damages) from the beginning of the world until the date hereof.

(b) Releases by Debtors and the Trustee to MGM. Immediately upon the Effective Date, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Debtors and the Trustee, each for itself and on behalf of its parents, members, successors, predecessors, subsidiaries, affiliated entities, past and present shareholders, officers, directors, agents, representatives, attorneys, employees, subsidiaries, affiliates, related entities, successors and assigns, shall and is deemed to remise, release, and forever discharge MGM and its parents, members, successors, predecessors, subsidiaries, affiliated entities, past and present shareholders, officers, directors, agents, representatives, attorneys, employees, subsidiaries, affiliates, related entities, successors and assigns of and from all debts, demands, actions, causes of action, suits, accounts, contracts, agreements, and damages in any and all claims, counterclaims, demands, and liabilities whatsoever of every kind, nature, and description whatsoever, both in law and equity, known or unknown, whether based in tort, contract, or any other theory of recovery (including, but without limitation, claims for incidental, consequential, compensatory, and punitive damages) from the beginning of the world until the date hereof.

(c) Mutual Releases in 9019 Order. The releases contained in this Section 4 shall be also set forth in the body of the 9019 Order, as reflected in Exhibit A to this Agreement.

(d) MGM's Allowed Claim. Trustee has no objection to MGM filing a Claim against the Debtors in the amount of \$5,000,000.

(e) Relief from Stay. The 9019 Order shall grant MGM relief from the automatic stay of Section 362 of the Bankruptcy Code, such that MGM shall be authorized to collect any and all files, documents, papers, patents, patent applications, source code, or related materials, in any form, related to the IP (the "IP Data"). Any parties in possession of any IP Data shall be authorized and directed to immediately turn the IP Data over to MGM.

(f) Notwithstanding anything to the contrary set forth herein, nothing in this **Section 4** shall be construed as a release of the covenants, representations, warranties, obligations, or liabilities (including, without limitation, any breach thereof) of any Party arising under this Agreement, the 9019 Order, or any implementing document required to be delivered pursuant to this Agreement.

5. **Authority.** Subject to entry of the 9019 Order, each Party represents and warrants that it has the full capacity and authority to act on its own behalf and on behalf of all who might claim through it to execute and deliver this Agreement and to bind itself and those who might claim through it to the terms hereof.

6. **Governing Law; Disputes.** Each of the Parties agrees that this Agreement shall be governed by the internal substantive laws and the choice of law rules of the State of Nevada and that the exclusive venue for any dispute arising out of this Agreement shall be the Bankruptcy Court.

7. **WAIVER OF JURY TRIAL.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY CONTROVERSY OR CLAIM, WHETHER ARISING IN TORT OR CONTRACT OR BY STATUTE OR LAW, BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONJUNCTION WITH THIS AGREEMENT, THE RELEASES GRANTED HEREBY, OR THE ASSIGNMENT (INCLUDING, WITHOUT LIMITATION, THE VALIDITY, INTERPRETATION, COLLECTION OR ENFORCEMENT HEREOF OR THEREOF), OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY IN CONNECTION HERewith OR THEREWITH. EACH PARTY ACKNOWLEDGES AND AGREES THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES' ENTERING INTO THIS AGREEMENT AND THE PARTIES WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT THIS WAIVER, THE PARTIES HERETO ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION 7 IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL.

8. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall have the same force and effect as an original, and all of which together shall constitute one and the same agreement and an effective, binding agreement on the part of each of the undersigned. Signatures of the Parties transmitted by e-mail in PDF format or by facsimile shall be deemed to be their original signatures for all purposes.

9. **Representations.** Each Party represents that it has had the opportunity to consult with an attorney and has carefully read and understands the scope and effect of each provision of this Agreement and its attachments. This Agreement shall be construed without regard to any presumption or rule requiring that it be construed against the Party causing this Agreement or any part hereof to be drafted.

10. **No Waiver.** The failure of any Party to enforce, at the time, any provision of this Agreement shall not be construed to be a waiver of such provision, or in any way affect the validity of this Agreement, or any part thereof, or the right thereafter to enforce any provision of this Agreement. No waiver of any breach of this Agreement shall be construed to be a waiver of any other breach.

11. **Entire Agreement.** This Agreement represents the entire agreement and understanding between the Parties concerning the subject matter hereof, and supersedes and replaces any and all prior agreements, representations, statements, and understandings concerning such matters. This Agreement may not be modified, amended, or terminated orally. No modification, amendment, or termination, or any waiver of any provision herein, shall be binding unless it is in writing and signed by the Party against whom such modification, amendment, or waiver is sought to be enforced.

12. **Survival.** All representations, warranties, covenants, agreements, and undertakings of each Party contained herein shall survive the completion of the actions contemplated in this Agreement and the termination of the Bankruptcy Cases.

[Remainder of the Page Intentionally Left Blank]

IN WITNESS WHEREOF, each Party hereto has caused this Agreement to be duly executed by its respective authorized representative as of the date first written above.

THE TRUSTEE, on behalf of:

Ebersol Sports Media Group, Inc.;
AAF Players, LLC;
AAF Properties, LLC;
Legendary Field Exhibitions, LLC;
LFE 2, LLC; and
We Are Realtime, LLC.

By: _____
Name: Randolph N. Osherow, the Chapter 7
Bankruptcy Trustee

MGM

**MGM Resorts International Operations,
Inc.**

By: _____
Name:
Title:

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE:

**LEGENDARY FIELD EXHIBITIONS,
LLC;**

AAF PLAYERS, LLC;

AAF PROPERTIES, LLC;

**EBERSOL SPORTS MEDIA GROUP,
INC.;**

LFE 2, LLC;

WE ARE REALTIME, LLC

DEBTORS

[illegible]

CHAPTER 7

CASE NO. 19-50900-CAG

CASE NO. 19-50902-CAG

CASE NO. 19-50903-CAG

CASE NO. 19-50904-CAG

CASE NO. 19-50905-CAG

CASE NO. 19-50906-CAG

**(SUBSTANTIVE CONSOLIDATION OF
ALL 6 CASES, INTO ONE CASE,
LEGENDARY FIELD EXHIBITIONS,
LLC, CASE NO. 19-50900-CAG)
JOINTLY ADMINISTERED UNDER
CASE NO. 19-50900-CAG**

CERTIFICATE OF MAILING

I certify that copies of the Motion for Approval of Settlement Agreement with MGM Resorts International Operations, Inc. , was served to the below named persons by first class mail and to the parties on the limited mailing matrix on file with the Clerk's Office, on this the 26th day of June, 2019:

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